



Apportionment of relief or compensation obtained by such legal proceedings.

141. Whatever is obtained by way of relief or compensation in any such legal proceedings shall, as between the bailor and the bailee, be dealt with according to their respective interests.

PART XIII.
AGENCY.

Appointment and Authority of Agents.

“Agent” and “principal” defined.

142. An “agent” is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the “principal.”

Who may employ agent.

143. Any person who is competent to contract may employ an agent.

Who may be an agent.

144. As between the principal and third persons any person may become an agent, but no person who is not competent to contract can become an agent, so as to be responsible to his principal according to the provisions in that behalf herein contained.

Consideration not necessary.

145. No consideration is necessary to create an agency.

Agent’s authority may be expressed or implied.

146. The authority of an agent may be expressed or implied.

Definitions of express and implied authority.

147. An authority is said to be express when it is given by words spoken or written. An authority is said to be implied when it is to be inferred from the circumstances of the case; and things spoken or written, or the ordinary course of dealing, may be accounted circumstances of the case.

Extent of agent’s authority.

148.—

(1) An agent having an authority to do an act has authority to do every lawful thing which is necessary in order to do such act.

(2) An agent having an authority to carry on a business has authority to do every lawful thing necessary for the purpose, or usually done in the course of conducting such business.



Agent's authority in an emergency.

149. An agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence, in his own case, under similar circumstances.

Sub-agents.

When agent cannot delegate.

150. An agent cannot lawfully employ another to perform acts which he has expressly or impliedly undertaken to perform personally, unless by the ordinary custom of trade a sub-agent may, or, from the nature of the agency, a sub-agent must, be employed.

“Sub-agent” defined.

151. A “sub-agent” is a person competent to contract, employed by, and acting under the control of, the original agent in the business of the agency.

Representation of principal by sub-agent properly appointed.

152.—

(1) When a sub-agent is properly appointed, the principal is, so far as regards third persons, represented by the sub-agent, and is bound by and responsible for his acts, as if he were an agent originally appointed by the principal.

Agent's responsibility for sub-agent.

(2) The agent is responsible to the principal for the acts of the sub-agent.

Sub-agent's responsibility.

(3) The sub-agent is responsible for his acts to the agent, but not to the principal, except in case of fraud or wilful wrong.

Agent's responsibility for sub-agent appointed without authority.

153. Where an agent, without having authority to do so, has appointed a person to act as a sub-agent, the agent stands towards such person in the relation of a principal to an agent, and is responsible for his acts both to the principal and to third persons; the principal is not represented by or responsible for the acts of the person so employed, nor is that person responsible to the principal.

Relation between principal and person duly appointed by agent to act in business of agency.

154. Where an agent, holding an express or implied authority to name another person to act for the principal in the business of the agency, has named another person accordingly, such person is not a sub-agent, but an agent of the principal for such part of the business of the agency as is entrusted to him.

Agent's duty in naming such person.

155. In selecting such agent for his principal, an agent is bound to exercise the same amount of discretion as a man of ordinary prudence would exercise in his own case; and if he does this he is not responsible to the principal for the acts or negligence of the agent so selected.

Ratification.

Right of person as to acts done for him without his authority Effect of ratification.

156. Where acts are done by one person on behalf of another, but without his knowledge or authority, he may elect to ratify or to disown such acts. If he ratify them, the same effects will follow as if they had been performed by his authority.

Ratification may be expressed or implied.

157. Ratification may be expressed or may be implied in the conduct of the person on whose behalf the acts are done.

Knowledge requisite for valid ratification.

158. No valid ratification can be made by a person whose knowledge of the facts of the case is materially defective.

Effect of ratifying unauthorised act forming part of a transaction.

159. A person ratifying any unauthorised act done on his behalf ratifies the whole of the transaction of which such act formed a part.

Ratification of unauthorised act cannot injure third person.

160. An act done by one person on behalf of another, without such other person's authority, which, if done with authority, would have the effect of subjecting a third person to damages, or of terminating any right or interest of a third person, cannot, by ratification, be made to have such effect.

Revocation of Authority.

Termination of agency.

161. An agency is terminated by the principal revoking his authority; or by the agent renouncing the business of the agency; or by the business of the agency being completed; or by either the principal or agent dying or becoming of unsound mind; or by the principal being adjudicated a bankrupt or insolvent under the provisions of any Law for the time being in force relating to bankruptcy or insolvency.

Termination of agency, where agent has an interest in subject-matter.

162. Where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.

When principal may revoke agent's authority.

163. The principal may, save as is otherwise provided by the last preceding section, revoke the authority given to his agent at any time before the authority has been exercised so as to bind the principal.

Revocation where authority has been partly exercised.

164. The principal cannot revoke the authority given to his agent after the authority has been partly exercised so far as regards such acts and obligations as arise from acts already done in the agency.

Compensation for revocation by principal or renunciation by agent.

165. Where there is an express or implied contract that the agency should be continued for any period of time, the principal must make compensation to the agent, or the agent to the principal, as the case may be, for any previous revocation or renunciation of the agency without sufficient cause.

Notice of revocation or renunciation.

166. Reasonable notice must be given of such revocation or renunciation; otherwise the damage thereby resulting to the principal or the agent, as the case may be, must be made good to the one by the other.

Revocation and renunciation may be expressed or implied.

167. Revocation and renunciation may be expressed or may be implied in the conduct of the principal or agent respectively.

When termination of agent's authority takes effect as to agent, and as to third persons.

168. The termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or, so far as regards third persons, before it becomes known to them.

Agent's duty on termination of agency by principal's death or insanity.

169. When an agency is terminated by the principal dying or becoming of unsound mind, the agent is bound to take, on behalf of the representatives of his late principal, all reasonable steps for the protection and preservation of the interests entrusted to him.

Termination of sub-agent's authority.

170. The termination of the authority of an agent causes the termination (subject to the rules herein contained regarding the termination of an agent's authority) of the authority of all sub-agents appointed by him.

Agent's Duty to Principal.

Agent's duty in conducting principal's business.

171. An agent is bound to conduct the business of his principal according to the directions given by the principal, or, in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal, and, if any profit accrues, he must account for it.

Skill and diligence required from agent.

172. An agent is bound to conduct the business of the agency with as much skill as is generally possessed by persons engaged in similar business, unless the principal has notice of his want of skill. The agent is always bound to act with reasonable diligence, and to use such skill as he possesses; and to make compensation to his principal in respect of the direct consequences of his own neglect want of skill or misconduct, but not in respect of loss or damage which are indirectly or remotely caused by such neglect, want of skill or misconduct.

Agent's accounts.

173. An agent is bound to render proper accounts to his principal on demand.

Agent's duty to communicate with principal.

174. It is the duty of an agent, in cases of difficulty, to use all reasonable diligence in communicating with his principal and in seeking to obtain his instruction.

Right of principal when agent deals on his own account, in business of agency without principal's consent.

175. If an agent deals on his own account in the business of the agency, without first obtaining the consent of his principal and acquainting him with all material circumstances which have come to his own knowledge on the subject, the principal may repudiate the transaction, if the case shows either that any material fact has been dishonestly concealed from him by the agent, or that the dealings of the agent have been disadvantageous to him.

Principal's right to benefit gained by agent dealing on his own account in business of agency.

176. If an agent, without the knowledge of his principal, deals in the business of the agency on his own account instead of on account of his principal, the principal is entitled, notwithstanding anything contained in Part VIII of this Law, to claim from the agent any benefit which may have resulted to him from the transaction.

Agent's right of retainer out of sums received on principal's account.

177. An agent may retain, out of any sums received on account of the principal in the business of the agency all moneys due to himself in respect of advances made or expenses properly incurred by him in conducting such business, and also such remuneration as may be payable to him for acting as agent.

Agent's duty to pay sums received for principal.

178. Subject to such deductions, the agent is bound to pay to his principal all sums received on his account.

When agent's remuneration becomes due.

179. In the absence of any special contract, payment for the performance of any act is not due to the agent until the completion of such act; but an agent may detain moneys received by him on account of goods sold, although the whole of the good consigned to him for sale may not have been sold, or although the sale may not be actually complete.

Agent not entitled to remuneration for business misconducted.

180. An agent who is guilty of misconduct in the business of the agency is not entitled to any remuneration in respect of that part of the business which he has misconducted.

Agent's lien on principal's property.

181. In the absence of any contract to the contrary, an agent is entitled to retain goods, papers and other property, whether movable or immovable, of the principal received by him, until the amount due to himself for commission, disbursements and services in respect of the same has been paid or accounted for to him.

Principal's Duty to Agent.

Agent to be indemnified against consequences of lawful acts.

182. The employer of an agent is bound to indemnify him against the consequences of all lawful acts done by such agent in exercise of the authority conferred upon him.

Agent to be indemnified against consequences of acts done in good faith.

183. Where one person employs another to do an act, and the agent does the act in good faith, the employer is liable to indemnify the agent against the consequences of that act, though it cause an injury to the rights of third persons.

Non-liability of employer of agent to do a criminal act.

184. Where one person employs another to do an act which is criminal, the employer is not liable to the agent, either upon an express or an implied promise, to indemnify him against the consequences of that act.

Compensation to agent for injury caused by principal's neglect.

185. The principal must make compensation to his agent in respect of injury caused to such agent by the principal's neglect or want of skill.

Effect of Agency on Contract with Third Persons.

Enforcement and consequences of agent's contracts.

186. Contracts entered into through an agent, and obligations arising from acts done by an agent, may be enforced in the same manner, and will have the same legal consequences, as if the contracts had been entered into and the acts done by the principal in person.

Principal how far bound when agent exceeds authority.

187. When an agent does more than he is authorised to do, and when the part of what he does, which is within his authority, can be separated from the part which is beyond his authority, so much only of what he does as is within his authority is binding as between him and his principal.

Principal not bound when excess of agent's authority is not separable.

188. Where an agent does more than he is authorised to do, and what he does beyond the scope of his authority cannot be separated from what is within it, the principal is not bound to recognise the transaction.

Consequences of notice given to agent.

189. Any notice given to or information obtained by the agent, provided it be given or obtained in the course of the business transacted by him for the principal, shall, as between the principal and third parties, have the same legal consequences as if it had been given to or obtained by the principal.

Agent cannot personally enforce, nor be bound by contracts on behalf of principal. Presumption of contract to contrary.

190.—

(1) In the absence of any contract to that effect, an agent cannot personally enforce contracts entered into by him on behalf of his principal, nor is he personally bound by them.

(2) Such a contract shall be presumed to exist in the following cases—

- (a) where the contract is made by an agent for the sale or purchase of goods for a merchant resident abroad;
- (b) where the agent does not disclose the name of his principal;
- (c) where the principal, though disclosed, cannot be sued.

Rights of parties to a contract made by agent not disclosed.

191.—

(1) If an agent makes a contract with a person who neither knows, nor has reason to suspect, that he is an agent, his principal may require the performance of the contract; but the other contracting party has, as against the principal, the same rights as he would have had as against the agent if the agent had been principal.

Where principal discloses himself before completion of contract.

(2) If the principal discloses himself before the contract is completed, the other contracting party may refuse to fulfil the contract, if he can show that, if he had known who was the principal in the contract, or if he had known that the agent was not a principal, he would not have entered into the contract.

Performance of contract with agent supposed to be principal.

192. Where one man makes a contract with another, neither knowing nor having reasonable ground to suspect that the other is an agent, the principal, if he requires the performance of the contract, can only obtain such performance subject to the rights and obligations subsisting between the agent and the other party to the contract.

Right of person dealing with agent personally liable.

193. In cases where the agent is personally liable, a person dealing with him may hold either him or his principal, or both of them, liable.



Consequence of inducing agent or principal to act on belief that principal or agent will be held exclusively liable.

194. When a person who has made a contract with an agent induces the agent to act upon the belief that the principal only will be held liable, or induces the principal to act upon the belief that the agent only will be held liable, he cannot afterwards hold liable the agent or principal respectively.

Liability of pretended agent.

195. A person untruly representing himself to be the authorised agent of another, and thereby inducing a third person to deal with him as such agent, is liable, if his alleged employer does not ratify his acts, to make compensation to the other in respect of any loss or damage which he has incurred by so dealing.

Person falsely contracting as agent not entitled to performance.

196. A person with whom a contract has been entered into in the character of agent is not entitled to require the performance of it if he was in reality acting, not as agent, but on his own account.

Liability of principal inducing belief that agent's unauthorised acts were authorised.

197. When an agent has, without authority, done acts or incurred obligations to third persons on behalf of his principal, the principal is bound by such acts or obligations if he has by his words or conduct induced such third persons to believe that such acts and obligations were within the scope of the agent's authority.

Effect, on agreement, of misrepresentation or fraud by agent.

198. Misrepresentations made, or frauds committed, by agents acting in the course of their business for their principals, have the same effect on agreements made by such agents as if such misrepresentations or frauds had been made or committed by the principals; but misrepresentations made, or frauds committed, by agents, in matters which do not fall within their authority, do not affect their principals.

Section 247 of this Law which repealed the Commercial Code (Amendment) Law 1917 and some provisions of the Mejlle and the Ottoman Commercial Code, provided that such repeal should not, and that nothing in the Law should, affect:—

- (a) any contract, agreement, bond or instrument entered into, made or executed before the coming into operation of this Law; or
- (b) any right or interest acquired or accrued under the provisions of any enactment repealed by this Law; or
- (c) any legal proceeding or remedy in respect of any such contract, agreement, bond, instrument, right or interest.